

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

KENNETH N. MILLER,

Plaintiff,

vs.

**UNION PACIFIC RAILROAD COMPANY,
a Delaware Corporation;**

Defendant.

8:18CV149

**THIRD AMENDED ORDER SETTING
FINAL SCHEDULE FOR
PROGRESSION OF CASE**

This matter comes before the court on the parties' Joint Motion to Extend Deadlines (Filing No. 42). After review of the motion, the Court finds good cause to extend the case progression deadlines. Accordingly,

IT IS ORDERED that the parties' Joint Motion to Extend Deadlines (Filing No. 42) is granted, and the follow case progression deadlines shall apply:

- 1) The jury trial of this case remains set to commence before Robert F. Rossiter, Jr., United States District Judge, in Courtroom 4, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Omaha, Nebraska, at **9:00 a.m.** on **May 11, 2020**, or as soon thereafter as the case may be called, for a duration of five (5) trial days. This case is subject to the prior trial of other civil cases that may be scheduled for trial before this one. Jury selection will be held at the commencement of trial.
- 2) The Pretrial Conference remains scheduled before the undersigned magistrate judge on **May 1, 2020**, at **10:00 a.m.**, and will be conducted in chambers. The parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to nelson@ned.uscourts.gov, in Word format, by **3:00 p.m.** on **April 24, 2020**.
- 3) The deadline for completing written discovery under Rules 33, 34, and 36 of the Federal Rules of Civil Procedure is **September 16, 2019**. Motions to compel discovery under Rules 33, 34, and 36 must be filed by **October 1, 2019**.
Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 4) The deadlines for identifying expert witnesses expected to testify at the trial, and to complete expert disclosures,¹ (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff:	November 1, 2019
For the defendant:	November 15, 2019
Plaintiff's rebuttal:	December 31, 2019

- 5) The deposition deadline is **September 16, 2019**.
- 6) The deadline for filing motions to dismiss and motions for summary judgment is **November 15, 2019**.
- 7) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **December 31, 2019**.
- 8) Motions in limine shall be filed seven (7) days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 9) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 10) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 24th day of July, 2019.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.